

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

GORDON LEE BAUM and COUNCIL OF CONSERVATIVE CITIZENS,
a not-for-profit corporation,

(b) County of Residence of First Listed Plaintiff St. Charles, MO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Robert Herman, Schwartz, Herman & Davidson, 621 North
Skinker Blvd., St. Louis, MO 63130, Ph: 314/862-0200

DEFENDANTS

MAPLEWOOD CITY LIBRARY, CITY OF ST. LOUIS, UNIVERSITY CITY
PUBLIC LIBRARY, VALLEY PARK COMMUNITY LIBRARY,

County of Residence of First Listed Defendant St. Louis, MO
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C., Sec. 1983, 1st and 14th Amendments

Brief description of cause:

Declaratory Judgment/Injunctive Relief for Denial of 1st Amendment Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/10/2006

SIGNATURE OF ATTORNEY OF RECORD

Robert Herman

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Plaintiffs'
Exhibit 1

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED
MAR 13 2006
U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

GORDON LEE BAUM and COUNCIL
OF CONSERVATIVE CITIZENS, a
not-for-profit corporation,

Plaintiffs,

vs.

MAPLEWOOD CITY LIBRARY, a
municipal corporation, CITY OF
UNIVERSITY CITY PUBLIC LIBRARY,
a municipal corporation, VALLEY PARK
COMMUNITY LIBRARY, a municipal
corporation, and FESTUS CITY
LIBRARY, a municipal corporation,

Defendants.

4 06CV00453CDP

Cause No. _____

**COMPLAINT – DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
PURSUANT TO 42 U.S.C. § 1983 AND THE FIRST AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION**

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens,
and for their cause of action, state to the Court as follows:

JURISDICTION, VENUE AND FACTS COMMON TO ALL COUNTS

1. This Court has federal question jurisdiction over the instant matter pursuant to 28 U.S.C., § 1331, 42 U.S.C., § 1983, and the First and Fourteenth Amendments to the United States Constitution.

2. The Council of Conservative Citizens is a Missouri not-for-profit corporation, with its principal place of business located in the County of St. Charles,

State of Missouri, within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division. The Council of Conservative Citizens is a social and political advocacy organization.

3. Gordon Lee Baum is the Chief Executive Officer of the Council of Conservative Citizens.

4. Maplewood City Library is a municipal corporation located within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

5. City of University City Public Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

6. Valley Park Community Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

7. Festus City Library is a municipal corporation operating within the jurisdictional territory of the United States District Court for the Eastern District of Missouri, Eastern Division.

8. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library offer the availability of internet terminals to their patrons. These terminals are designed to be used directly by the patron and without the intermediary of a library official.

9. Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library have installed specialized software on the internet terminals, which purpose is to block patrons' access to certain classes of internet sites specified by the library through the activation of various options offered by the software.

10. Maplewood City Library, City of University City Public Library, Valley Park Community Library, and Festus City Library have activated the software filter option which blocks a patron's access to sites that the library and/or the software publisher have designated as "hate speech".

11. The Council of Conservative Citizens maintains an internet site and/or webpage at the address designated as www.cofcc.org.

12. The internet website of the Council of Conservative Citizens contains social and political advocacy speech protected by the First Amendment to the United States Constitution.

13. The internet website of the Council of Conservative Citizens does not contain any pornography or sexually oriented images.

14. The "hate speech" software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, blocks a patron's access to the webpage site of the Council of Conservative Citizens.

15. The "hate speech" software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, does not block internet sites which are critical of the policies and advocacy of the Council of Conservative Citizens.

16. On or about May 26, 2005, Gordon Lee Baum, on behalf of the Council of Conservative Citizens, wrote to Maplewood City Library demanding that the library remove its webpage from the list of blocked "hate speech" internet sites and allow free and unfettered access to its webpage and/or internet site. *See, Exhibit 1*, attached hereto and incorporated by reference herein.

17. Thereafter, Terrence Donnelly, Director of Maplewood City Library, acknowledged that the Council of Conservative Citizens' website was blocked because it came within the category of "hate and discrimination," and refused to unblock the internet site and make it available to all citizens without the necessity of asking that the internet site be unblocked. *See, Exhibit 2*, attached hereto and incorporated by reference herein.

18. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the City of University City Public Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See, Exhibit 3*, attached hereto and incorporated by reference herein.

19. On or about November 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Valley Park Community Library demanding

that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 4**, attached hereto and incorporated by reference herein.

20. On or about July 13, 2005, Gordon Lee Baum, acting on behalf of the Council of Conservative Citizens, wrote the Festus City Library demanding that access to the website of Council of Conservative Citizens be unblocked. *See*, **Exhibit 5**, attached hereto and incorporated by reference herein.

COUNT I – DECLARATORY JUDGMENT

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count I of their cause of action, state to the Court as follows:

1. The “hate speech” software filter, as it is employed in Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library, discriminates against speech of the Council of Conservative Citizens on the basis of the content and viewpoint of the speech contained in its website.

2. Such viewpoint discrimination is inconsistent with the protections of the First and Fourteenth Amendments to the United States Constitution and violates the First and Fourteenth Amendments of both the Council of Conservative Citizens, as the speaker, and Gordon Lee Baum, as the receiver of such information.

WHEREFORE, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court for a Declaratory Judgment that the actions of Maplewood City Library, City of University City Public Library, Valley Park Community Library and Festus City Library in the utilization of software filters to block patrons’ access to the

website of the Council of Conservative Citizens on the alleged basis that it constitutes "hate speech," violates the First and Fourteenth Amendments to the United States Constitution, for their costs in this matter, and for attorneys' fees pursuant to 42 U.S.C., § 1988.

COUNT II – PRELIMINARY INJUNCTION

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, and for Count II of their cause of action, state to the Court as follows:

1. Both Gordon Lee Baum and the Council of Conservative Citizens have suffered and will continue to suffer immediate, and irreparable harm by the continued denial of their rights under the First and Fourteenth Amendments to the United States Constitution.
2. Governmental censorship of the Council of Conservative Citizens' speech on the basis of its content and viewpoint is well-established as a violation of the First and Fourteenth Amendments to the United States Constitution, and therefore Plaintiffs are likely to prevail on the merits of this matter.
3. Plaintiff's have no adequate remedy at law with which to correct the deprivation of their Constitutional rights pursuant to the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, pray this Court issue a preliminary injunction immediately enjoining Maplewood City Library, City of University City Public Library, Valley Park